

AGREEMENT

Made this 27th day of June, 1994, by and between

Pleasant Corporation, t/a Zig Zag Cafe
1524-1526 U Street, N.W.
Washington, D.C. 20009
("Applicant")
and all successors and assigns

and

Alan Basist
Gregory Bolton
Peter V. Brehm
Richard T. Busch
Brenda Cronin
Mark C. Huey
James Mears
Shelly Myers
Matthew Patrick
Thomas Popovich
Albert Seifert
Michael Schade
(together 14(b) "Protestants")

WITNESSETH

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board ("Board") is a protest of the application for a Retailer's Class "CR" license to Applicant for premises 1524-1526 U Street, N.W., ABC Board Application #32861-94014; and

WHEREAS, the Protestants and Applicant have reached certain understandings regarding Applicant's operation of the establishment;

NOW, THEREFORE, the parties agree as follows:

GENERAL:

1. Applicant will not use the rear of either 1524 or 1526 U Street, N.W. for service to patrons. Nor will Applicant use rear area for outdoor food, beverage, or service preparation of any kind. Current fenced area will be allowed to be used solely for some storage if the area is kept in a neat and orderly manner and is in compliance with all building and fire safety codes that obtain.
2. Applicant, as the operator of a restaurant, will establish hours of operations as follows:

Sunday - Tuesday: Closing at 12:00 Midnight
Wednesday - Thursday: Closing at 1:00 a.m.
Friday, Saturday, and the day preceding a Federal holiday:
Closing at 2:00 a.m.

3. All patrons must be cleared from premises no later than 12:00 Midnight on Sunday through Tuesday; no later than 1:00 a.m. on Wednesday through Thursday; and no later than 2 a.m. on Friday, Saturday, and the day preceding a Federal holiday.
4. Applicant will provide thirty (30) calendar days notice to Protestants' representative, Christine Pembroke, 1523 Caroline Street, N.W., Washington, D.C. 20009, before making any substantial changes in its operations, or changes to the exterior of the premises, requiring governmental approval. This provision does not constitute a waiver of any term or condition in this agreement.
5. Applicant agrees not to open another establishment serving or selling alcoholic beverages within 600 feet of the Applicant's current establishment.

NOISE:

6. Applicant will provide a doorperson, whose duties shall be, among others, to promote quiet and orderly behavior and to discourage loitering by its patrons. The doorperson will be on duty during the hours of 9:00 p.m. until closing, Thursday through Saturday, and the day preceding a Federal holiday. Applicant will provide notices at its entrance and on its guest checks requesting its patrons to depart the premises and the surrounding neighborhood in a quiet manner so as not to disturb its residential neighbors.
7. In case of an emergency, patrons and employees of the Applicant will exit the premises, using the front door of 1526 U Street, N.W., specially equipped with "panic alarm" hardware. In case of an emergency, the rear exit of 1524 U Street, N.W., may also be used. At all other times, use of the rear door of 1524 U Street, N.W., shall be limited to deliveries and to the removal of trash.
8. To reduce noise emanating from the rear of the premises:
 - a. Applicant will keep rear windows closed at all times.
 - b. Applicant will construct a wall, or develop some other means, adjacent to the rear exit of 1524 U Street, N.W., that will serve as a baffle to reduce and deflect sounds coming from the Applicant's establishment at those times when the rear door must be opened for deliveries or trash removal.

- c. Applicant will ensure that air conditioning in the Applicant's kitchen is sufficient to provide for the comfort of employees and to eliminate the need for opening the rear door or window(s) to cool the premises.
9. Applicant will take and document all steps necessary to reduce noise emanating from the current, and any future, exhaust system located at the premises. After Applicant is in operation for one (1) month, Protestants will be polled by their representative as to the exhaust system's level of noise. If the noise level is found to be unsatisfactory to the Protestants, Protestants' representative will notify Applicant who will take all necessary steps to reduce noise level to satisfactory level. If necessary the noise level will be documented by a noise control consultant (e.g., Acoustical Engineers-Polysonics Inc., or Miller Henning Associates, Inc.), hired by the applicant after consultation with Protestants' representative, as meeting acceptable noise levels for a residential area. A copy of this report will be given to the Protestants' representative, Christine Pembroke, 1523 Caroline Street, N.W., Washington, D.C. 20009. If necessary, the Applicant will have a barrier constructed around the system to reduce noise.

TRASH:

10. Applicant, on a daily basis prior to opening, will remove all litter, trash, weeds, or other debris from the area directly in back of the premises at 1524-1526 U Street, N.W., up to 18 inches into the alley. Trash and debris will also be removed in front of the premises up to 18 inches into the street, as required by D.C. law.
11. Applicant, on a daily basis prior to opening and more often if necessary, will hose down front sidewalk and entire rear service area, unless temperatures are below 32 degrees Fahrenheit, to maintain cleanliness.
12. Applicant will assume and maintain primary control and responsibility over trash disposal dumpsters located at the rear of 1524-1526 U Street, N.W. An adequate number of dumpsters will be provided to accommodate all trash disposal. The Applicant agrees to take all necessary steps, such as realigning the use of allocated rear space outside the premises, to ensure access to each and every one of its dumpster by its trash hauling company. Dumpsters will be kept closed at all times.
13. Applicant will arrange to have trash picked up at least five days per week. Applicant will ensure that trash is not picked up before 7 a.m. on weekdays and before 9 a.m. on Saturdays.

14. Applicant will ensure that dumpsters are in good working condition, that lids fit tightly, and that they have four wheels or are constructed in such a manner so as to reduce noise during times when the Applicant's trash hauling company must move the dumpsters to empty their contents.
15. Applicant shall dispose of food and food by-products by disposal or by properly bagging them in heavy plastic garbage/trash bags. Double bags will be used if necessary to keep contents secure, and in all cases will be properly tied. Bags will be disposed of in dumpsters at the rear of the premises, ensuring that dumpster lids are properly in place once the bags have been placed inside.
16. Applicant will contract with an established pest control company and will develop a pest control plan that remains in effect throughout the term of this Agreement. This plan will be put into effect and will include elimination of rats and other rodents from the premises and periodic inspection of, and baiting of, the alley by the pest control company to eliminate rodent harborage. Protestants, through their representative, will assist the Applicant by alerting the Applicant to any rodents that the Protestants may see in the alley and to the appearance of the general area for which the Applicant is responsible under the terms of its license and of this Agreement.
17. Applicant will not make deliveries of carryout food.
18. Applicant will provide a custodian for neighborhood cleaning and for making small repairs. Protestants, by their representative, shall relay any potential work or projects to the Applicant.

ENTERTAINMENT:


19. Applicant will not have live entertainment on the premises. (Live entertainment is defined as live instrumental or vocal music; use of a Disk Jockey; or any music or sound amplification loud enough to be heard outside the premises.)
20. Applicant will ensure that no dancing takes place on the premises.
21. Applicant will ensure that no exterior sound amplification equipment is installed or used on the premises.

IN CONCLUSION:

22. Applicant must have all fire, health, building, and safety inspections conducted and approved, and inspection certificates on file, before the "CR" license is issued. Required permits for any currently uninspected work and any future work must be filed in a timely manner with the appropriate office of the District of Columbia government.
23. Applicant must have a Certificate of Occupancy before the requested "CR" license is issued. A copy of that certificate should be delivered to Christine Pembroke, 1523 Caroline Street, N.W., Washington, D.C. 20009.
24. This Agreement will become effective upon the issuance of a Retailer's Class "CR" license to Applicant.
25. If Applicant is advised of any failure to carry out paragraphs 6, 8(b), 8(c), 9, 12, 14, 16, 18, 22, and 23 of this Agreement, Applicant will have seven (7) business days in which to correct the situation. Violations by Applicant of other provisions of this Agreement will be corrected promptly after notice. If the situation is not corrected, the Applicant acknowledges that this will constitute grounds for Protestants to petition the ABC Board for issuance of an order to Show Cause, pursuant to 23 D.C.M.R. 1513.5, or for assessment of any relevant fines in order to gain Applicant's compliance with the terms of this Agreement.
26. This Agreement shall not preclude Protestants from exercising any other rights under the ABC statute or regulations, nor from challenging Applicant's compliance with any other District of Columbia law or regulation not covered in this Agreement.
27. In consideration of, and in reliance upon, the above stated covenants and promises, and with the understanding that such stated conditions will be made part of the ABC license, the Protestants do hereby withdraw their objections to the pending application. It is expressly understood that this Agreement shall bind Applicant and all Protestants of record.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals as of the year and day first above written.

APPLICANT: PLEASANT CORPORATION t/a Zig Zag Cafe

BY: 
Eric Fritz, Vice President

6-27-94

PROTESTANTS:

Alan Basist:

Alan Basist

Gregory Bolton:

Gregory C. Bolton

Peter V. Brehm:

Peter V. Brehm

Richard T. Busch:

Richard T. Busch

Brenda Cronin:

Brenda Cronin

Mark C. Huey:

Mark C. Huey

James Mears:

James Mears

Shelly Myers:

Shelly Myers

Matthew Patrick:

Matthew Patrick

Thomas Popovich:

Thomas E. Popovich

Albert Seifert:

Albert Seifert

Michael Schade:

Michael Schade

BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter:)

Pleasant Corporation)
t/a Zig Zag Cafe)

Application for a retailer's)
license class CR - new)
at premises)
1524-1526 U Street, N.W.)
Washington, D.C.)

Case No. 32861-94015P
Section 14(e)

Richard T. Busch, Mark Huey and James Mears, Initiating Petitioners

Richard T. Busch, on behalf of Section 14 (b) Protestants

Dimitri P. Mallios, Esquire, on behalf of Applicant

Eric Fritz, Vice President, on behalf of Applicant

BEFORE: Mary Eva Candon, Esquire, Chair
James C. Jefferson, Member
James L. O'Dea, III, Esquire, Member
Barbara L. Smith, Esquire, Member

ORDER ON WITHDRAWN PROTEST

The application, having been protested, came before the Board for public hearing on February 9, 1994 in accordance with D.C. Code 25-115 (c)(5)(1992 Supp.), providing for remonstrants to be heard. Richard T. Busch, Mark Huey and James Mears filed timely letters initiating the section 14(e)(registered voter) petition process.^{1/} In addition, several section 14(b) letters were filed timely, and the protestants designated Mr. Richard T. Busch as their representative in this matter.

The official records of the Board reflect that parties have now reached an Agreement which has been reduced to writing, and has been properly executed and filed with the Board.^{2/} Pursuant to the Agreement, the Protestants have agreed to withdraw the protest provided, however, that the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the Agreement.

^{1/} The initiating petitioners circulated section 14 (e) (registered voter) petition forms and were unsuccessful in obtaining the statutorily mandated number of signatures necessary for the Board to deny the application. The Board proceeded with the section 14(b) petitions.

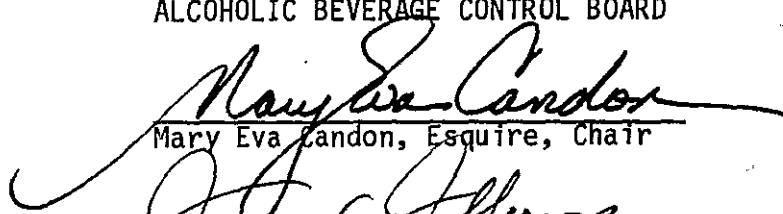
^{2/} See Agreement dated June 27, 1994.

Pleasant Corporation
t/a Zig Zag Cafe
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Accordingly, it is this 10th day of August 1994 ORDERED
that:

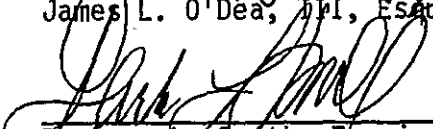
1. The protest of Richard T. Busch be, and the same hereby, is WITHDRAWN;
2. The above-referenced Agreement between the Protestant and the Applicant be, and the same hereby, is INCORPORATED as part of this Order;
3. The application of Pleasant Corporation t/a Zig Zag Cafe for a retailer's license class CR - new at premises 1524-26 U Street, N.W., be, and the same hereby, is GRANTED; and,
3. Copies of this Order shall be sent to the Initiating Petitioners, the Protestant, the Attorney for the Applicant, and the Applicant.

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD


Mary Eva Candon, Esquire, Chair


James C. Jefferson, Member


James L. O'Dea, J.P.I., Esquire, Member


Barbara L. Smith, Esquire, Member